

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**David Sweet,**

Plaintiff,

Case No. 1:25-cv-  
Hon.

v.

**Edward Tolar, Mayor,**  
in his personal and official capacities,

**Lavonna Wenzel, City Clerk,**  
in her personal and official capacities, and

**City of Milan,**

Defendants.

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LAW OFFICES OF TRACY S. THOMAS, PLC

By: **Tracy S. Thomas** (P45915)

Attorney for Plaintiff

538 N. Mill Street

Plymouth, MI 48170

734-455-2700

734-455-2377 fax

tstplc12@gmail.com

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**COMPLAINT and JURY DEMAND**

Plaintiff, David Sweet, by and through his attorney, Tracy S. Thomas, states  
as follows:

### **Parties, Jurisdiction, and Venue**

1. This is an action brought pursuant to 42 U.S.C. Section 1983.
2. This action involves alleged violations of Plaintiff's fundamental right to vote, as protected by federal legislation, including, without limitation, the Help America Vote Act of 2002 ("HAVA"), 52 U.S.C. Section 20901 et seq.
3. This action involves alleged violations of Plaintiff's fundamental right to vote, as protected by the Constitution of the United States, including, without limitation, the Fourteenth Amendment.
4. This action involves alleged violations of Plaintiff's fundamental right to vote, as protected by the Constitution of the State of Michigan, including, without limitation, Article I, Section 2.
5. This Court has jurisdiction over this action pursuant to 28 U.S.C. Section 1331.
6. Plaintiff, David Sweet, is a resident of Milan, Michigan, and of the Eastern District of Michigan.
7. Defendant City of Milan is a local unit of government organized pursuant to the laws of the State of Michigan and a state actor. The City is located in the Eastern District of Michigan.

8. Defendant Edward Tolar is the duly-elected Mayor of the City of Milan. Upon information and belief he resides in the Eastern District of Michigan.
9. Defendant Lavonna Wenzel is the City Clerk for the City of Milan. Upon information and belief, she resides in the Eastern District of Michigan.
10. The acts, omissions, facts, and circumstances that give rise to this action occurred in the Eastern District of Michigan.
11. Venue is proper within this judicial district pursuant to 28 U.S.C. Section 1391(b).

### **Factual Allegations**

12. In October of 2017, Plaintiff registered to vote in the City of Milan.
13. From 2017 through 2021, Plaintiff voted in the City of Milan, both in-person and by absentee ballot, without incident. Those elections were overseen and supervised, in part, by Defendant Wenzel performing her duties as City Clerk.
14. On or about April 25, 2022, Defendant Kolar executed a document entitled “Challenged Elector Affidavit” alleging, among other things, that Plaintiff did not reside at 60 West Lewis Avenue, Plaintiff’s residence. (see copy attached as **Exhibit “A”**). Plaintiff believes that Defendant Kolar’s actions were motivated by personal dislike of the Plaintiff, by Plaintiff’s vocal opposition to Defendant Kolar’s mayoral candidacy, and by Plaintiff’s

persistent dissenting voice criticizing Defendant Kolar's actions, positions, and performance while in office.

15. On or about May 18, 2022, Defendant Wenzel mailed a copy of Defendant Kolar's Affidavit to Plaintiff (see copy of letter, attached as **Exhibit "B"**).

16. On or about August 2, 2022, Defendant Wenzel refused to permit Plaintiff to vote in the primary election, turning him away, and stating, among other things, "Go back and vote where you live." Defendant Wenzel did so despite the fact that Plaintiff was ready, willing, and able to satisfy the "proof of residency" requirement set forth in MCL Section 168.497. Defendant Wenzel also failed to notify and permit Plaintiff to cast a provisional ballot, as provided in 52 U.S.C. Section 21082. Upon information and belief, Defendant-Wenzel's actions were undertaken in concert with and/or under the direction of, Defendant-Kolar.

17. Assuming he would be treated in like fashion, Plaintiff chose not to attempt to vote in the November, 2022 general election.

18. Perhaps realizing that she had acted unlawfully, Defendant Wenzel caused the Plaintiff to be restored to the list of registered City of Milan voters in May of 2023 (see copy of Voter Identification Card dated May 25, 2023, addressed to the Plaintiff at his Lewis Avenue address, attached as **Exhibit "C"**).

19. Defendant Kolar has, over the years, uttered a number of false public statements, most notably at Milan City Council meetings, accusing Plaintiff of not residing in the City of Milan as a way of undermining Plaintiff's credibility and standing to comment upon local issues and engage in public discourse.

20. Upon information and belief, Defendant Kolar recently directed the City of Milan Building Department to send Plaintiff correspondence requesting that Plaintiff register 60 West Lewis Avenue as a "Vacant Building" under local ordinance (see attached **Exhibit "D"** - 01/03/2025 Request to Register Vacant Building). This letter is a "Request" in name only, as it actually serves as a precursor to enforcement actions for failure to comply.

**Count I - Violation of the Help America Vote Act of 2002, Pursuant to 42 U.S.C. Section 1983**

21. Plaintiff incorporates paragraphs 1 through 20 by reference.

22. Defendant Wenzel, while acting under the color of law and either in concert with or at the direction of Defendant Kolar, violated Plaintiff's statutory rights under HAVA, including, without limitation, by wrongfully preventing Plaintiff from voting and by failing to notify and offer Plaintiff a provisional ballot on election day.

23. Defendant Kolar, while acting under the color of law and either in concert with or by directing Defendant Wenzel, violated Plaintiff's statutory rights under HAVA, including, without limitation, by wrongfully preventing Plaintiff from voting and by failing to notify and offer Plaintiff a provisional ballot on election day.

24. Upon information and belief, Defendant City failed to properly hire, train, supervise, control, and/or discipline, Defendant Wenzel. Furthermore, Defendant City was, upon information and belief, deliberately indifferent to the rights of others in adopting and implementing its hiring and training practices and in failing to properly train, supervise, control, and/or discipline Defendant Wenzel.

25. As a direct and proximate result of Defendants' actions and failures, Plaintiff was unable to cast his vote on August 2, 2022 and on November 8, 2022.

26. As a direct and proximate result of Defendants' actions and failures, Plaintiff suffered damages, including, but not limited to, emotional and mental distress.

27. Wherefore, Plaintiff requests that this Court grant judgment against the defendants for damages, including, but not limited to, emotional and mental distress damages, punitive damages, an award of reasonable attorney fees

pursuant to 42 U.S.C. Section 1988, interest and costs, and any other relief deemed necessary and proper by the Court.

**Count II - Violation of the Fourteenth Amendment of the United States Constitution, Pursuant to 42 U.S.C. Section 1983**

28. Plaintiff incorporates paragraphs 1 through 27 by reference.

29. Defendant Wenzel, while acting under the color of law and either in concert with or at the direction of Defendant Kolar, violated the constitutional rights guaranteed to Plaintiff by the Fourteenth Amendment of the United States Constitution by wrongfully preventing Plaintiff from exercising his fundamental right to vote.

30. Defendant Kolar, while acting under the color of law and either in concert with or by directing Defendant Wenzel, violated the constitutional rights guaranteed to Plaintiff by the Fourteenth Amendment of the United States Constitution by wrongfully preventing Plaintiff from exercising his fundamental right to vote.

31. Upon information and belief, Defendant City failed to properly hire, train, supervise, control, and/or discipline, Defendant Wenzel. Furthermore, Defendant City was, upon information and belief deliberately indifferent to the rights of others in adopting and implementing its hiring and training

practices and in failing to properly train, supervise, control, and/or discipline Defendant Wenzel.

32. Defendants caused Plaintiff to be turned away from his rightful polling place, contrary to the proper procedures under applicable Michigan and federal law.

33. As a direct and proximate result of Defendants' actions and failures, Plaintiff was unable to cast his vote on August 2, 2022 and on November 8, 2022.

34. As a direct and proximate result of Defendants' actions and failures, Plaintiff suffered damages, including, but not limited to, emotional and mental distress.

35. Wherefore, Plaintiff requests that this Court grant judgment against the defendants for damages, including, but not limited to, emotional and mental distress damages, punitive damages, an award of reasonable attorney fees pursuant to 42 U.S.C. Section 1988, interest and costs, and any other relief deemed necessary and proper by the Court.

### **Count III - Violation of the Michigan Constitution**

36. Plaintiff incorporates paragraphs 1 through 35 by reference.

37. Defendant Wenzel, while acting under the color of law and either in concert with or at the direction of Defendant Kolar, violated the constitutional rights guaranteed to Plaintiff by the Constitution of the State of Michigan



including, without limitation, the Equal Protection Clause, Article I, Section 2, by wrongfully preventing Plaintiff from exercising his fundamental right to vote.

38. Defendant Kolar, while acting under the color of law and either in concert with or by directing Defendant Wenzel, violated the constitutional rights guaranteed to Plaintiff by the Constitution of the State of Michigan including, without limitation, the Equal Protection Clause, Article I, Section 2, by wrongfully preventing Plaintiff from exercising his fundamental right to vote.

39. Defendants caused Plaintiff to be turned away from his rightful polling place, contrary to the proper procedures under applicable Michigan and federal law.

40. As a direct and proximate result of Defendants' actions and failures, Plaintiff was unable to cast his vote on August 2, 2022 and on November 8, 2022.

41. As a direct and proximate result of Defendants' actions and failures, Plaintiff suffered damages, including, but not limited to, emotional and mental distress.

42. Wherefore, Plaintiff requests that this Court grant judgment against the defendants for damages, including, but not limited to, emotional and mental distress damages, punitive damages, an award of reasonable attorney fees

pursuant to 42 U.S.C. Section 1988, interest and costs, and any other relief deemed necessary and proper by the Court.

Respectfully Submitted,

Law Offices of Tracy S. Thomas, PLC

**/s/ Tracy S. Thomas**

Tracy S. Thomas (P45915)

Attorney for Plaintiff

538 N. Mill Street

Plymouth, MI 48170

734-455-2700

734-455-2377 fax

tstplc12@gmail.com

### **JURY DEMAND**

Plaintiff hereby demands a jury trial on all issues.

Respectfully Submitted,

Law Offices of Tracy S. Thomas, PLC

**/s/ Tracy S. Thomas**

Tracy S. Thomas (P45915)

# Exhibit “A”

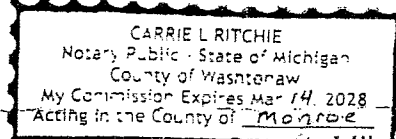
CHALLENGED ELECTOR AFFIDAVIT

State of Michigan Counties of Monroe and Washtenaw. Before me, the undersigned notary public, this day, personally, appeared Edward Kolar to me known, who being duly sworn according to law, deposes the following: (Affiant's Statement)

Edward G. Kolar III (Signature of Affiant)

Subscribed and sworn to before me this 25 day of April,  
20 22 Notary Public My Commission Expires:

Carrie L. Ritchie



I Ed Kolar, resident of the City of Milan residing at 615 North Street, Milan Mi 48160 challenge the voter registration of David Sweet.

David Sweet claims to live at 60 W. Lewis Ave. Milan Mi 48160. Under MCL 168.512 I am challenging this claim, as this address is his vacant rental property. David Sweet is 100% homesteaded at his York residence at 3341 Judd Road, Milan Mi 48160. This address is outside of the city limits and is not qualify him to vote as a Milan City resident.

Ed Kolar

Elector and resident of the City of Milan

# Exhibit “B”



OFFICE OF THE  
CLERK

May 18, 2022

David Sweet  
60 W. Lewis Ave.  
Milan, MI 48160

Re: Voter Registration

Dear Mr. Sweet,

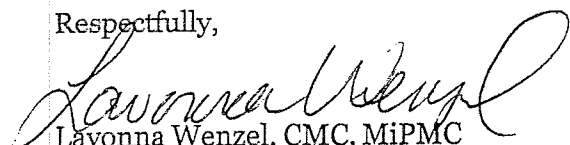
I have received the enclosed affidavit challenging your voter registration as a qualified City of Milan elector.

According to Michigan Compiled Law 168.512; (enclosed). You may appear before the clerk within 30 days to answer the questions and take the oath required of persons challenged on the same grounds at election. In lieu of appearing in person, within the same 30 days, you may elect to file with the clerk an affidavit setting forth specifically your qualifications as an elector of the municipality and answer the grounds of the challenge as stated in enclosed affidavit.

If within the 30-day period you fail to appear and be sworn or to file an affidavit, or if the statements do not show you to be a qualified elector of municipality, the clerk shall forthwith cancel your registration.

The 30-day period referenced above, shall be the 30 days immediately following the date of this mailing sent to you at your registered address.

Respectfully,

  
Lavonna Wenzel, CMC, MiPMC  
Milan City Clerk  
734-439-1501 opt. 2

## Exhibit “C”

PRINTING SYSTEMS, INC. • TAYLOR, MI • 1-800-95-12345 FORM #510  
DETACH ONLY THIS STUB BEFORE MAILING

FEED  
FACE UP  
THIS  
DIRECTION

LAVONNA WENZEL - CITY CLERK  
MILAN CITY  
147 WABASH STREET  
MILAN MI 48160

30 MAY 2023 PM 5



RETURN SERVICE REQUESTED

**VOTER IDENTIFICATION CARD**

City/Twp: MILAN CITY  
County: WASHTENAW

Ward: 00 Precinct: 01W Date: 5/25/2023

Listed below are the various districts in which you reside:

US Congressional: 06  
State Senate: 15  
State Representative: 031  
County Comm: 03

School District: MILAN AREA SCHOOLS

LAVONNA WENZEL • CITY CLERK

Mailing Location  
MILAN CENTER  
45 NECKEL CT

DAVID LEE SWEET  
80 W LEWIS AVE  
MILAN MI 48160

quadrant

FIRST-CLASS MAIL

IMI

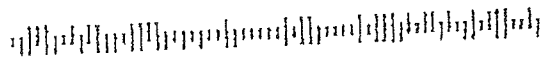
\$000.48

05/25/2023 ZIP 48160  
043M31239958

US POSTAGE

SIGNATURE OF VOTER

48160-112006 MAY 25 2023





**Voter Identification Requirement:** Every voter will be asked to show photo identification upon application to vote in person or sign an affidavit attesting that they are not in possession of photo identification.

**★ IMPORTANT NOTICE ★** Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide when registering to vote differs from the address shown on your Michigan driver license or state ID card, the Secretary of State will automatically update your driver license or personal identification card address. If an address change is made, the Secretary of State will mail you an address update sticker for your driver license or state ID card or mail you a new card.

**CHANGE OF ADDRESS** Should you move to a new address, please provide your new address, sign your name and return this card to the clerk listed on the opposite side or update your address online at [expressSOS.com](http://expressSOS.com).

New Address \_\_\_\_\_

Signature of Voter \_\_\_\_\_

#### NOTICE

If you move, you may record the change and update your voter registration records in any one of the following manners:

##### Online:

- At [Michigan.gov/Vote](http://Michigan.gov/Vote) with a valid Michigan driver's license or State ID.

##### In Person:

- At your city or township clerk's office or at the office of any county clerk.
- At any Secretary of State Branch office.
- At any State agency that provides public assistance or provides services to people with disabilities.

##### By Mail:

- By obtaining and completing a Voter Registration Application and forwarding to the election official as directed on the application.
- If the change only involves a move within the city or township where you are presently registered, you may send a signed letter or notice to the clerk listed on the reverse side giving both your old and new address.

# Exhibit “D”



1/3/2025

SWEET, DAVID LEE  
PO BOX 23  
MILAN, MI 48160

**Request to Register Vacant Building**

Vacant Building Address: 60 W LEWIS AVE

Dear Owner,

The City of Milan recently amended its Vacant Building ordinance to include annual registration and inspection requirements. The new ordinance is now in effect.

As the owner of a building that is believed to be vacant as defined by ordinance, we are reaching out to you as a courtesy to respectfully ask you to comply with ordinance requirements. A complete copy of the ordinance may be found and reviewed on the city's website here:

[https://milanmich.org/departments/building\\_department/vacant\\_abandoned\\_land/index.php](https://milanmich.org/departments/building_department/vacant_abandoned_land/index.php)

The first step is to complete the enclosed Vacant Building Registration form and submit it to our office either in-person, by USPS mail, or electronically by email. The registration form shall be accompanied by the required registration fee of \$100, which will enable us to accept and process your application and schedule your initial inspection.

We urge you to read the ordinance in its entirety, as there are several requirements you must comply with in order to maintain a vacant building going forward. Feel free to contact us with questions once you've had an opportunity to review the new law.

We look forward to receiving your registration application. Thank you for your anticipated cooperation!

Brandon Boggs - Inspector  
[brandonb@milanmich.org](mailto:brandonb@milanmich.org)  
734-770-7375

Stacy Kingsbury - Administrator  
[stacyk@milanmich.org](mailto:stacyk@milanmich.org)  
810-449-8725



## APPLICATION FOR VACANT BUILDING CERTIFICATION

PROPERTY ADDRESS: \_\_\_\_\_

PARCEL I.D. No: 19- \_\_\_\_\_

REGISTRATION FEE: ☐ \$100 ANNUALLY

FAILURE TO REGISTER FEE: ☐ \$250 + COST OF TITLE SEARCH

DATE OF VACANCY: \_\_\_\_/\_\_\_\_/\_\_\_\_ (DATE THE BUILDING FIRST BECAME VACANT)

WATER: ☐ ON ☐ OFF

PIPES WINTERIZED: ☐ YES ☐ NO

ELECTRICITY: ☐ ON ☐ OFF

BASEMENT SUMP PUMP OPERABLE: ☐ YES ☐ NO ☐ N/A

NATURAL GAS: ☐ ON ☐ OFF

### SECTION A: BUILDING TYPE

(select the appropriate type of structure)

☐ SINGLE FAMILY HOUSE OR ATTACHED CONDO/TOWNHOUSE

☐ DUPLEX HOUSE

☐ STAND-ALONE COMMERCIAL BUILDING

☐ INDUSTRIAL/WAREHOUSE BUILDING

☐ VACANT COMMERCIAL SPACE (ground level)

☐ OTHER/NOT LISTED

### SECTION B: INDIVIDUAL OWNER INFORMATION

(use for personal ownership only)

OWNER NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

### SECTION C: CORPORATE OWNER INFORMATION

(use for corporate ownership only)

CORPORATION NAME: \_\_\_\_\_ MICHIGAN ENTITY ID No: \_\_\_\_\_

CORPORATION ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

RESIDENT AGENT: \_\_\_\_\_

RESIDENT AGENT ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

**SECTION D: RESPONSIBLE PARTY FOR CARE & CONTROL OF THE BUILDING**

☐ CHECK HERE IF THE LISTED OWNER IS THE RESPONSIBLE PARTY FOR CARE AND CONTROL OF THE BUILDING

- OR -

NAME OF OTHER RESPONSIBLE PARTY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

**SECTION E: INSURANCE COVERAGE INFORMATION**

An owner of a vacant building shall maintain current property insurance on the subject structure for structural loss or damage including but not limited to fire damage. Upon request of the City, owners shall present valid proof of property insurance. Failure to present said proof, upon request, shall result in a suspension of the current registration and be deemed a violation of the ordinance.

NAME OF INSURANCE CARRIER: \_\_\_\_\_

POLICY NO.: \_\_\_\_\_ DATE ISSUED: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**SECTION F: OWNER'S CERTIFICATION & AUTHORIZATION**

I hereby certify that all statements and information provided on this form are true, complete, and accurate to the best of my knowledge. I agree to give proof of the information that I have reported on this form upon official request.

I hereby acknowledge my statutory responsibility to abide by the property maintenance requirements of the City of Milan and to maintain the subject vacant building and premises in compliance with the Property Maintenance Code of the City of Milan at all times.

I hereby convey my consent authorizing City of Milan inspectors to access the exterior of the subject property for inspection purposes at any time, and to enter into the structure for inspection purposes upon proper notice to me or my designated responsible party at the address, telephone number, and/or email address I have provided on this application form. I also understand that notification shall not be required in emergency situations.

I hereby acknowledge my responsibility to provide any prospective buyer with a copy of any Notice of Violation provided to me by the City of Milan concerning property maintenance code violations existing at the subject property with the understanding that any prospective buyer shall accept responsibility to repair/abate all code violations cited by the City of Milan within a reasonable period of time after purchase.

Owner's Signature \_\_\_\_\_

Date \_\_\_\_\_

Thank you for registering your vacant building. You will be notified of your first inspection date in the near future.